

MEETING AGENDA  
NRC EPA Teleconference on Second Draft Dewey Burdock UIC Class III Permit  
September 3, 2020  
2:00 p.m. – 3:00 p.m. EST  
Skype conference call number **NRC Ex. 6** Conference ID: **Ex. 6 Personal Privacy (PP)**

## Ex. 5 Deliberative Process (DP)

### ATTENDEES:

EPA: Greg Sopkin, Region 8 Administrator; Jagadeesan Sethuraman, Energy Advisor; Darcy O'Connor, Water Division Director; Bert Garcia, Water Deputy Division Director; Douglas Minter, UIC Section Chief; Valois Robinson, UIC Program Staff; Lucita Chin, Office of Regional Counsel, Safe Drinking Water Attorney; Everett Volk, Office of Regional Counsel; Sarah Bahrman, Safe Drinking Water Branch Chief; Rick Arnold, Hydrogeologist.

NRC: John Lubinski, NMSS Office Director; Trish Holahan, DUWP Division Director; Bo Pham, DUWP Deputy Division Director; Bill Von Till, Branch Chief, Uranium Recovery and Materials Decommissioning Branch (URMDB); Elise A. Striz, Hydrogeologist, URMDB; Douglas Mandeville, PM, URMDB; Mary Spencer, Assistant General Counsel, Office of General Counsel, Reactors & Materials Rulemaking (OGC/RMR); Andrew Pessin, Senior Attorney (OGC/RMR).

### MEETING PROCESS:

<u>Time</u>	<u>Topic</u>
2:00 p.m.	Introduction - NRC and EPA
2:05 p.m.	Objectives and Respective Roles (Attachment 1) - NRC and EPA
2:15 p.m.	Specific Items for Discussion (attached) - NRC and EPA
2:55 p.m.	Closing Remarks, Adjourn

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### B. NRC and EPA Regulatory Roles at Dewey Burdock ISR under UMTRCA

- UMTRCA Scheme:
  - EPA issues generally applicable standards (currently, in 40 CFR Part 192), for which NRC or an Agreement State is the licensing or regulatory agency.
  - NRC implements EPA's generally applicable standards through regulations (10 CFR Part 40, App. A), and through site-specific license conditions.
- NRC issued 10 CFR Part 40 license to PowerTech (USA), Inc., for the Dewey Burdock ISR site, on April 8, 2014.
- The licensee cannot begin ISR wellfield operations under the NRC license until EPA issues both the SDWA aquifer exemption and the UIC permit.

### C. EPA's Class III Regulatory Role at Dewey Burdock ISR under SDWA

- EPA exempts the ISR wellfield ore zone aquifer from the protection of the Safe Drinking Water Act (SDWA).
- EPA issues a UIC permit for Class III injection wells for ISR facilities under its SDWA UIC authority.
- EPA issued first draft Dewey Burdock Class III UIC permit in March 2017 for public comment. On August 16, 2019, EPA Region 8, issued the second draft of the DB Class III UIC permit for public comment.

### D. EPA and NRC MOU for UMTRCA authority at ISRs

- EPA and NRC signed an MOU in July 23, 2020. One stated purpose was "To provide a framework for cooperation and coordination between the NRC and the EPA for implementing each Party's statutory responsibilities under AEA §§ 84 and 275 with respect to the regulation of ISR activities in a timely, efficient, and thorough manner."
- The MOU clarifies that NRC has sole authority to review and approve an ACL for restoration of the exempt aquifer in the ISR wellfield in Section VIII (b) that states:

"The EPA concurrence under 40 CFR 192.32(a)(2)(v) is not required for the regulatory agency to approve an alternate concentration limit under AEA § 84c. in accordance with the Tenth Circuit Court of Appeals decision in *Environmental Defense Fund v. U.S. Nuclear Regulatory Commission*, 866 F.2d 1263, 12681269 (10th Cir. 1989)."

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